

REMARKS

Status of the Claims

Claims 1-20 are pending in this application. Reconsideration and allowance of all claims are respectfully requested in view of the following remarks.

Rejections Under 35 U.S.C. § 112

Claims 15 was rejected under 35 U.S.C. § 112 second paragraph for being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, the Examiner stated in page 2 of the Office Action that the limitation “said second slot” in line 3 does not have sufficient antecedent basis. The amendment to claim 15 herein obviates the Examiner’s rejection. The Applicant respectfully requests that the § 112 rejection be withdrawn.

Rejections Under 35 U.S.C. § 102

In the Office Action claims 12, 13 and 15 were rejected under 35 U.S.C. § 102 as being anticipated by the United States Patent 6,109,668 to Demarco (the '668 patent). Applicant respectfully traverses this rejection.

However, it is unclear to the Applicant whether the Examiner meant to reject these claims under 35 U.S.C. § 102(b) or § 102(e) as both sections are referenced in the same paragraph in the Office Action. However, in light of the fact that the issue date of the '668 patent is less than one year before the filing date of the present application, the Applicant assumes that Examiner meant to reject these claims under § 102(e) as § 102(b) clearly does not apply.

Therefore the following remarks will be made under the assumption that the Examiner meant to reject these claims under 35 U.S.C. § 102(e).

A § 102 rejection is proper only when the claimed subject matter is identically disclosed or described in the prior art—i.e. the prior art must teach every aspect of the claim. *In re Arkley*, 445 F.2d 586, 587 (C.C.P.A. 1972); *see also* MPEP § 2131.

The '668 patent does not teach or suggest every aspect of the claims. For example, claim 12, and thus dependent claims 13 and 15, contain the following language: “a rotating handle having an handle pin extending therefrom that contacts a slot movable with the second engagement means to move the second engagement means.” Applicant respectfully submits that the '668 patent does not teach at least this aspect of the claim.

The Examiner on page 3 of the Office Action characterized the '668 patent as showing an apparatus with: “the actuating means having a rotating handle (44) with a handle pin (36) extending therefrom that contacts a slot (56).” Applicant contends that this characterization is based on a misreading of the '668 patent. In the '668 patent, the handle (44) as shown in FIGS. 2, 3, 4, 7, 8 and 9 does not have a handle pin. The structure the Examiner contends is a handle pin (36) is not located on the handle portion (44) of the apparatus described in the '668 patent. Rather the structure the Examiner characterizes as a handle pin (36) is located on a different structure, i.e. a slider (30).

The cramping pin (76) can not be considered the handle pin of the claimed invention, because it serves as a locking mechanism (see col. 6, lines 52-56) and it is not “movable with the second engagement means to move the second engagement means” as recited by claim 12. Therefore the '668 patent does not teach or suggest a combination including “a handle having a handle pin extending *therefrom*.” (Emphasis added)

For at least these reasons, applicant requests the § 102 rejection of claims 12, 13 and 15 be withdrawn.

Rejections Under 35 U.S.C. § 103

Claims 1, 2, 5, 7-11, 16 and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the '668 patent for reasons set forth in the Office Action on pages 3 and 4. Applicant respectfully traverses this rejection.

In order to establish a *prima facie* case of obviousness, the prior art references must teach or suggest all aspects of the claim. (See MPEP § 2143.03).

The '668 patent does not teach or suggest the combination or method recited in claims 1, 2, 5, 7-11, 16 and 18-20. With respect to amended independent claim 1 and its dependent claims 2-11, the '668 patent does not teach or suggest the recited combination at least for the reason that it does not teach or suggest a "latch bar completely defining a first slot having a cam surface adapted to receive said door pin." The Examiner on page 3 of the Office Action characterized the '668 patent as teaching an apparatus with "a first slot (formed between numbers 20a and 20b in the frame)." Assuming *arguendo* that the Examiner's characterization is correct, and a first slot is defined between the members 20a and 20b and the frame in the apparatus described by the '668 patent, the '668 patent still does not teach or suggest a combination where a latch bar completely defines a first slot and has a cam surface. In contrast, the '668 patent shows an apparatus where the cam surface (37) is part of structure 20a or 20b which are separate members from the latch bar. In addition, even if as the Examiner contends, the slot of the '668 patent is defined by members 20a and 20b and the frame, then it is submitted that the slot is not defined by a latch bar as required by amended claims 1-11. Because the '668 patent does not teach or

suggest the combination required by claims 1-11, the Applicant respectfully request these rejections under 35 U.S.C. § 103(a) be withdrawn.

With respect to independent claim 16 and its dependent claims 17-20, Applicant makes the following remarks. The '668 patent does not teach or suggest the method as required by claims 16-20 at least for the reason that it does not teach a method including "inserting a door pin mounted to the door into a first slot completely defined by a latch bar mounted to the frame." As stated above, the '668 patent does not teach a first slot completely defined by a latch bar. If the '668 patent does teach a first slot, as argued by the Examiner, then it is a slot defined by members 20a and 20b and the frame, it is not a slot defined by a latch bar as required by claims 16-20. Therefore, for at least this reason, Applicant respectfully requests the rejections of claims 16 and 18-20 under 35 U.S.C. § 103(a) be withdrawn.

On page 5 of the Office Action the Examiner rejected claims 3, 4, 6, 14 and 17 under 35 U.S.C. § 103(a) as being unpatentable over the '668 patent in view of U.S. Patent No. 6,302,098 to Smith (the '098 patent). Applicant respectfully traverses this rejection. Because claims 3, 4, 6, 14 and 17 are dependent claims depending from patentable independent claims, Applicant respectfully states that these claims are patentable by reason of their dependency. Therefore, Applicant respectfully request that the rejections of claims 3, 4, 6, 14 and 17 under 35 U.S.C. §103(a) be withdrawn.

CONCLUSION

It is therefore respectfully submitted that the application is in condition for allowance and such action is hereby solicited.

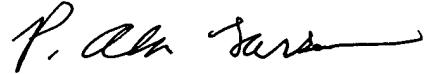
Docket No. Docket No. 87427.1040 (formerly 114286.1040)
Customer No. 30734

PATENT

Any extension of time necessary to prevent abandonment is hereby requested, and any fee necessary for consideration of this response is hereby authorized to be charged to Deposit Account No. 50-2036.

Respectfully submitted,

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APPENDIX

**VERSION WITH MARKINGS SHOWING CHANGES MADE
IN THE CLAIMS**

Amended claims 1, 15 and 16.

1. (Amended) An apparatus for latching a door against a frame, comprising;
a door pin extending from the door;

a handle lever rotatably mounted to the door and having a handle pin extending
therefrom;

and

a latch bar mounted for reciprocating travel relative to the frame, the latch bar
[having] completely defining a first slot [having] and a cam surface adapted to receive said door
pin, and a second slot adapted to receive said handle pin;

wherein said latch bar and handle have a first unlatched position where said handle pin
enters said second slot and said door pin enters said first slot, and a second latched position
where said handle pin contacts said second slot and said cam surface bears against said door pin,
and

wherein rotation of said handle from the first position to the second position causes said
handle pin to bear against said second slot, moving said latch bar in a latching direction from the
first position to the second position, so that said first slot on said cam surface bears against said
door pin and urges the door in a closing directions.

15. (Amended) An apparatus according to claim 12, wherein said handle rotates about a first axis, and has a handle portion on one side of the first axis, and said handle pin is on the other side of the axis, and wherein said [second] slot is a substantially straight slot extending perpendicular to the direction of reciprocating travel of said latch bar.

16. (Amended) A method for latching a door against a frame, comprising the steps of:

inserting a door pin mounted to the door into a first slot [on] completely defined by a latch bar mounted to the frame;

inserting a handle pin mounted to a handle into a second slot on the latch bar; and
rotating the handle in a first direction so that the door pin urges the latch bar in a first direction so that the first slot cammingly contacts the door pin to urge the door into a latched position.